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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/500,425

09/07/2004

Achim Weber

P/ 2107-253

9293

2352 7590 06/30/2010
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EXAMINER

YU, MELANIE J

ART UNIT

PAPER NUMBER

1641

MAIL DATE

DELIVERY MODE

06/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/500,425</p>	<p>Applicant(s) WEBER ET AL.</p>	
	<p>Examiner MELANIE YU</p>	<p>Art Unit 1641</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-4, 6, 7, 13-26, 29-31, 35-46 and 90.
Claim(s) withdrawn from consideration: 5, 11, 12, 23, 27, 28, 32-34, 47-65, 78, 80, 82, 84, 86, 88 and 92-96.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Melanie Yu/
Primary Examiner, Art Unit 1641

Continuation of 11. does NOT place the application in condition for allowance because: for the reasons stated in the previous office action dated 29 April 2010.

Applicant argues that the instant claims requires either a plasma layer with charged groups or a plasma layer with chemically reactive groups and the particles are bonded to the surface by the plasma layer and Lynn does not describe a plasma layer suitable to ensure permanent adherence of nanoparticles to a surface. Applicant argues that the plasma is only optionally used by Lynn to create a charged region on the substrate surface to permit a better attachment of polyelectrolyte layers made by LBL technology and are therefore not plasma layers.

Applicant's argument is not persuasive because the claims do not exclude the presence of a polyelectrolyte layer. Lynn teaches the presence of a plasma layer to attached to the substrate through the plasma layer. Therefore the plasma and the polyelectrolyte form a single layer that is attached to the substrate. The rejection is based on the addition of a plasma layer to provide better attachment of the polyelectrolyte to the substrate. Therefore Lynn is not relied upon for teaching a suitable layer to ensure permanent adherence of nanoparticles to a surface and is relied upon only for providing a plasma layer for attachment of the polyelectrolyte layer taught by Kotov. The presence of the plasma layer taught by Lynn provides for the limitation of the plasma layer providing adherence of the nanoparticles because the plasma layer adheres the polyelectrolyte layer with the nanoparticles to the substrate.

Applicant argues that the plasma technology according to the teachings of Lynn serve as a component of the substrate and it is not suggested to use the charged groups to adhere nanoparticles to the carrier since according to Lynn, charged groups build only a thin layer and would not ensure a permanent adherence of the nanoparticles.

Applicant's argument is not persuasive because Lynn is not relied upon for direct attachment of the nanoparticles to the substrate. Lynn is relied upon only for teaching a plasma layer used to attach a polyelectrolyte layer to a substrate. Therefore when combined with Mirkin and Kotov, the nanoparticles are attached to the substrate indirectly through the plasma layer. The rejection is not based on excluding the polyelectrolyte layer and is instead based on the addition of plasma layer as taught by Lynn. According to Lynn it is obvious to attach a polyelectrolyte layer to a substrate through a plasma layer. Additionally, when the polyelectrolyte layer contains nanoparticles, the nanoparticles are also attached to the substrate through the plasma layer.